

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Criminal Appellate Side

Criminal Rev.Application No. 176 of 1999

Maharashtra Krishi Udyog Vikas
Maha Mandal

..Petitioner

vs.

1. Vardhaman Kanayalal Shah
and another

..Respondents

Shri Ganesh Gole for the petitioner.
Shrik Ajay S.Patil i/b Shri P.K.Dhakephalkar for
respondent no.1
Smt.M.M.Deshmukh, P.P. for respondent no.2

CORAM: S.C.DHARMADHIKARI J.
20th July, 2007

P.C.

1. In my order dated 22nd June, 2007, I had recorded that the matter was adjourned to enable the parties to negotiate for over all settlement. This order was passed after the following statement of the learned Advocate for the respondents was recorded by me.

"Learned Advocate for respondents states that respondent no.1 original accused till date has paid a sum of Rs.9.59 lakhs and is agreeable to pay the balance amount if the account is settled."

2. Shri Patil appearing for the respondents submits that

after the order was passed by this Court, there was a meeting held at which respondent no.1 was informed by the petitioner that the outstanding principal amount is Rs.2,78,000 and the Corporation would consider waiving of interest if the principal amount is paid in its entirety.

3. This statement is confirmed by Shri Gole appearing for the petitioner. However, Shri Patil, after taking instructions from respondent no.1 who is present in court, states that the petitioner Corporation has not given credit for the sum of Rs.70,000/- and it is incorrect to state that outstanding principal sum is Rs.2,78,000/- It is Rs.1,86,000/- and if credit of Rs.70,000/- is given, then the balance sum would be Rs.1,16,000/- which respondent no.1 is agreeable to pay in instalments.

4. The subject matter of the revision is acquittal of respondent no.1 who was proceeded against for an offence of forgery punishable under the I.P.C. I was of the view that it need not be kept pending in as much as no useful purpose would be served, if after the lapse of nearly 9 years, the issues raised by the petitioner and respondent no.1, more particularly, with regard to the alleged forgery are gone into and decided. The entire issue centers around Exh.24 and the argument is that this letter was not issued.

5. This is a State prosecution. However, the basis of the prosecution is the outstanding amount which is due and payable arising out of the transaction between the petitioner Corporation and respondent no.1 Distributor. There are civil disputes which, according to Shri Patil, have been settled. There was also a complaint filed under sec.138 of the Negotiable Instruments Act.

6. Considering the statement of account and bills submitted, in my view, no useful purpose would be served by considering the rival contentions after a lapse of nearly 9 years. More so, when respondent no.1 is ready and willing to pay a sum of Rs.1,20,000/- on account and without prejudice to the rights and contentions of the parties on or before 30th November, 2007. The criminal revision application stands disposed of in terms of this statement.

7. Both sides do not dispute that this Court under its Revisional Jurisdiction so also by exercising its inherent powers pass such orders to secure the ends of justice. Therefore, ends of justice would be met if proceedings in Regular Criminal Case No.162 of 1991 on the file of Judicial Magistrate, First Class are concluded by maintaining the order of acquittal. This order is passed in the presence of both counsel and after noting the fact that the criminal case is based upon the complaint of the

petitioner. Now, the petitioner and the witnesses would find it cumbersome to prosecute the case even if the impugned order is set aside and the case is retried. The matter will have to start once again. In these peculiar facts and when nearly nine (9) years have gone by that the proceedings deserve to be closed. The civil disputes are also likely to come to an end. Hence, no purpose will be served by deciding any larger controversy.

8. Needless to state that it would be open for the petitioner to accept the above sum in full and final settlement or accept the same on account and without prejudice to its rights and contentions to recover the balance in accordance with law. Needless to further add that as and when such proceedings are instituted, respondent no.1 is at liberty to raise all contentions and pleas as are available to him in law. The Criminal Revision application stands disposed off in the above terms.

9. Undertaking of respondent no.1 is accepted. Needless to state that in default of payment of Rs.1,20,000/- the petitioner would be entitled to recover the entire amount due and payable as per its books of account in accordance with law.

(S.C.DHARMADHIKARI J.)